



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 17, 1995

Mr. Robert Diaz  
Police Legal Advisor  
City of Arlington Police Department  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR95-1072

Dear Mr. Diaz:

The City of Arlington Police Department (the "department") previously requested an open records decision from this office, which we issued as Open Records Letter No. 93-545 (1993). You ask us to reconsider whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request for a reconsideration of Open Records Letter No. 93-545 (1993) was assigned ID# 22338.

The department reurges that section 552.108 of the Government Code precludes the disclosure of some of the requested information. The department claims that the statute of limitations on the closed files has not yet elapsed and that pursuant to section 552.108, that alone should suffice to show that the disclosure of information in that file would interfere with law enforcement. The department also argues that the disclosure of evidentiary matters would also interfere with law enforcement. In closed cases, a governmental body must demonstrate that release of the information would unduly interfere with law enforcement or prosecution before it can withhold information under section 552.108. Open Records Decision No. 216 (1978) at 4; *see also* Open Records Decision Nos. 434 (1986), 397 (1983). Where the prospects of prosecution are speculative or nebulous in a case, the situation cannot form the basis for withholding information under section 552.108, even if the statute of limitations has not yet expired. Open Records Decision No. 582 (1990). Because you have not satisfactorily explained or shown how release of the three closed files would unduly interfere with law enforcement or prosecution, and because the documents do not provide such an explanation on their face, we have no basis to conclude that any additional information in these closed files

may be withheld from required public disclosure under section 552.108 of the act other than what was decided in Open Records Letter No. 93-545 (1993).<sup>1</sup>

The department also urges a reconsideration of section 552.101 and common-law privacy concerns with regard to the two sexual assault cases. The department claims that the "disclosure of witnesses/friends' identities, addresses and phone numbers 'tend to identify a victim of a serious sexual offense.'" After again reviewing this information in the two sexual assault cases, we believe that such information in these files should be disclosed since you have not explained, nor is it apparent to us, how this information would identify or tend to identify the victims in this instance. Open Records Decision Nos. 339 (1982), 393 (1983). We therefore decline to reconsider our ruling in Open Records Letter No. 93-545 (1993).

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID# 22338

Enclosures: Submitted documents

cc: Mr. D. C. Malone  
P.O. Box 14014  
Fort Worth, Texas 76117  
(w/o enclosures)

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<sup>1</sup>As to the May 1992 robbery, you state that "the identity of the victim and the fact that she can identify the suspect, endangers the victim." Without further information that specifically applies to this case, we are unable to determine that release of the victim's identity would unduly interfere with law enforcement.